



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: July 2, 2015

Date of Meeting: July 16, 2015

Submitted by: Town Council Vice Chair Tom Mahon

Department:

Time Required: 20 minutes

Speakers:

Background Info.

Supplied:

Yes: ☒ No: ☐

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:

☐

Recognition/Resignation/

☐

Retirement:

Public Hearing:

☐

Old Business:

☐

New Business:

☒

Consent Agenda:

☐

Nonpublic:

☐

Other:

☐

TITLE OF ITEM

Proposed Zoning Ordinance Amendments [First Reading]

DESCRIPTION OF ITEM

The Town Council to consider proposed amendments to the Zoning Ordinance (Sections 1, 2 and 17), pursuant to RSA 675:6, 675:7 and Charter Article V.

REFERENCE (IF KNOWN)

RSA:

675:6, 675:7

Warrant Article:

Charter Article:

V

Town Meeting:

Other:

N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:

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Grant Requirements:

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Easel:

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Joint Meeting:

☐

Special Seating:

☐

Other:

☐

Laptop:

☐

None:

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CONTACT INFORMATION

Name:

Tom Mahon

Address

Phone Number

Email Address

tmahon@merrimacknh.gov

APPROVAL

Town Manager:

Yes ☒ No: ☐

Chair/Vice Chair:

Yes ☒ No: ☐

Hold for Meeting Date: _____

SECTION 1 - PURPOSE AND DEFINITIONS [revised *TBD*]

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1.01 Purposes

This ordinance shall be known as the Zoning Ordinance and Building Code. To promote the health, safety, convenience and general welfare of the Town of Merrimack and to make it an attractive place in which to live, the following ordinance and building code is hereby enacted by the voters of said Town of Merrimack.

1.02 Other Definitions Found at Other Locations in This Ordinance

- A. Certain terms and words are also defined at Section 2.02.8 *Flood Hazard Conservation District*, Page 28.
- B. Certain terms and words are also defined at Section 2.02.11 *Aquifer Conservation District*, page 42.
- C. Certain terms and words are also defined at Section 17.04 *Signs*, page 126.
- D. Certain terms and words are also defined at Section 2.02.12 *Shoreland Protection District*, page 49.

1.03 - Definitions

- A. For the purposes of this ordinance, certain terms and words are hereby defined.
 - 1. Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board or Zoning Board of Adjustment.
 - 2. Accessory Dwelling Unit: A second dwelling which is contained within an existing or proposed single family detached dwelling unit that is clearly incidental and subordinate in extent, use and purpose to the principal dwelling.
 - 3. Accessory Use: A subordinate use of land or building which is customarily incidental and subordinate to the principal building or to the principal use of the land and which is located on the same lot with the principal building or use.
 - 4. Airport/helicopter/aircraft: An area of land or water providing certain specified facilities and services for use in connection with air transportation which could be used as a site for landing and taking-off of aircraft. Aircraft means any engine powered contrivance for air transportation.

Section 1.03 Definitions (cont):

5. Alternative Treatment Center: An "alternative treatment center" as defined in RSA 126-X:1, I, namely, a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients and alternative treatment centers.
 - a) Alternative Treatment Center (Cultivation Location Only): A "cultivation location" as defined in RSA 126-X:1, IV, namely, a locked and enclosed site under the control of an alternative treatment center where cannabis is cultivated, secured with one or more locks or other security devices in accordance with RSA 126-X and the Department of Health and Human Service's administrative rules.
 - b) Alternative Treatment Center (Non-Cultivation Location): An alternative treatment center operated in accordance with RSA 126-X and the Department of Health and Human Services administrative rules that has a separate location for the cultivation of cannabis.
6. Appeal: A process whereby any person, officer, department, board or bureau aggrieved by a decision of the Planning & Zoning Administrator or Building Official may appeal to the Zoning Board of Adjustment where such matter is within the board's power and shall file a Notice of Appeal specifying the grounds therefore, and shall include the process whereby any adverse decisions by the Zoning Board of Adjustment are further appealed to the Superior Court.
7. Aquifer: Those areas designated as having high, medium, and low potential to yield water which appear on state-wide mapping prepared by the U.S. Geological Survey (USGS) entitled "Availability of Groundwater in the lower Merrimack River Basin Southern N.H." by John E. Cotton, 1977, or as most recently published by USGS..
8. Building Official: An appointed official whose primary responsibility is to enforce the Building Code of the Town of Merrimack.
9. Certificate of Occupancy: A statement signed by the Building Official setting forth that a building or structure or any portion thereof complies with the zoning and building ordinance; that a building, structure or parcel of land may lawfully be employed for specified uses; or both.
10. Certified Soil Scientist: a person who, by reason of special knowledge of pedological principles acquired professional education and practical experience, as specified in RSA 310-A:84, I & II, is qualified to identify, classify, and prepare soil maps according to the standards of the National Cooperative Soil Survey, or standards adopted by the New Hampshire Department of Environmental Services, or standards adopted by the board, and who has been duly certified by the authorized state board of natural sciences.

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Section 1.03 - Definitions (continued)

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| 11. | <u>Certified Wetland Scientist</u> : a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified in RSA 310-A:84, II-a & II-b, is qualified to delineate wetland boundaries and prepare wetland maps in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or its successor and who has been duly certified by the authorized state board of natural sciences. | Deleted: 0 |
| 12. | <u>Change of Use</u> : The change in the use of land and/or building(s) to another use. | Deleted: 1 |
| 13. | <u>Community Development Director</u> : The chief administrator of the Community Development Department. | Deleted: 2 |
| 14. | <u>Conservation Commission</u> : A seven member municipal body appointed by the Town Council for the proper utilization and protection of natural resources and for the protection of water-shed resources within the Town of Merrimack. | Deleted: 3 |
| 15. | <u>District, Overlay</u> : A special district or zone which addresses special land use circumstances and/or environmental safeguards and is superimposed over the underlying existing zoning districts. Permitted uses in the underlying zoning district shall continue subject to compliance with the regulations of the overlay zone or district. | Deleted: 4 |
| 16. | <u>District or Zone</u> : A geographical section or sections of the Town for which the regulations and provisions governing the use of buildings and land are uniform for each class of use permitted therein and where certain uses of land may be permitted, permitted or denied pursuant to municipal review or prohibited. | Deleted: 5 |
| 17. | <u>Dwelling Unit</u> : A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. | Deleted: 6 |
| 18. | <u>Expansion/Alteration</u> : As applied to a building or structure, means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another. | Deleted: 7 |
| 19. | <u>Family</u> : One or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit. | Deleted: 8 |

Section 1.03 - Definitions (continued)

20. Family Day Care Home: An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except the children who are 10 years of age or older. In addition to the 6 children, up to three children attending a full day school program may also be cared for up to five hours per day on school days and all day during school holidays.

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21. Farms, Agriculture, Farming: As defined in RSA 21:34-a and amendments thereto, the word "farm" shall mean any land or buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence or residences of owners, occupants, or employees located on such land. The words "agriculture" and "farming" shall mean all operations of a farm such as the cultivation, conserving, and tillage of the soil, dairying, greenhouse operations, the production, cultivation, growing and harvesting of any agricultural, floricultural, sod or horticultural commodities, the raising of livestock, bees, fur-bearing animals, fresh water fish or poultry, or any practices on the farm as an incident to or in conjunction with such farming operations including, but not necessarily restricted to, the following: preparation for market, delivery to storage or to market, or to carriers for transportation to market, of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail or in any other manner any products from the farm and of other supplies that do not exceed in average yearly dollar volume the value of products from such farm.

22. Floor Area, Gross: For the purpose of determining required parking spaces, the gross floor area is the total floor area within the perimeter of the outside walls of the building without deduction for hallways, stairs, closets, thickness of walls, columns and other similar features.

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23. Floor Area, Net: For the purpose of determining required parking spaces, the net floor area is total floor area within the perimeter of the inside walls of the building deducting for interior walls, hallways, stairs, closets, storage and similar features including other areas such as those for the preparation of food and drink, restrooms and waiting rooms.

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24. Floor Area of Building: The total number of square feet of floor area of all stories in a building, excluding cellars, unfinished attics, uncovered steps and uncovered porches. All horizontal measurements shall be made between exterior faces of walls.

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25. Frontage: The length of the lot line connecting the side lot lines which borders on a Class V or better highway (excepting the F.E. Everett Turnpike and other Limited Access Highways as defined in RSA 230:44 (as may be amended from time to time)), or a street on a subdivision plat approved by the Planning Board, or land designed to become a Class V or better highway.

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Section 1.03 - Definitions (continued)

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| | 26. | <u>Hazardous or Toxic Materials or Liquids</u> : Materials or liquids that pose a threat present or future to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976. | Deleted: 5 |
| | 27. | <u>Home Occupation</u> : A non-residential use carried on within a residence or its accessory buildings, which use is clearly incidental and secondary to the principal use of the property as a residence and does not change the character thereof. | Deleted: 6 |
| | 28. | <u>Home Owner</u> : The owner of record of any land and residential and accessory structures located thereon. | Deleted: 7 |
| | 29. | <u>Junk</u> : Unregistered motor vehicles no longer intended or in condition for legal use on the public highways; used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle; or any machinery, scrap metal or other worn out, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion to same use. Junk shall also include any worn out or discarded materials including but not necessarily limited to construction material, household wastes, including garbage, discarded appliances, and discarded consumer electronic devices. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk. | Deleted: 8 |
| | 30. | <u>Junk Yard</u> : Any space more than 200 square feet in area, whether inside or outside a building, used for storage, keeping, processing, salvaging or abandonment of junk. | Deleted: 29 |
| | 31. | <u>Junk Yard, Commercial</u> : Any junk yard which is operated for profit, whether said profit is derived from the storage, reconditioning, conversion, or sale of junk, or otherwise. | Deleted: 0 |
| | 32. | <u>Lot Depth</u> : Lot depth shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. | Deleted: 1 |
| | 33. | <u>Lot Frontage</u> : The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements for corner lots and double frontage lots, all sides of a lot adjacent to streets shall be considered frontage. | Deleted: 2 |
| | 34. | <u>Lot Line, Rear</u> : The lot line or lines generally opposite or parallel to the front lot line, except in a double frontage lot. If the rear lot line is less than 10 feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line. | Deleted: 3 |

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 1.03 – Definitions (continued)

35. Lot of Record: A lot held under separate ownership from the adjacent lots or a lot shown to be a separate and distinct numbered lot of record by a plan of lots which has been recorded.

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36. Manufactured Housing: Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein. The terms "mobile home" or "trailer", as these may appear in this ordinance, should be understood to mean "manufactured housing" as defined herein.

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37. Manufactured Housing Park: A parcel of land containing at least five acres, upon which one or more manufactured homes are parked or intended to be parked for living purposes.

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38. Multiple (Multi) family dwelling: A building containing three (3) or more dwelling units.

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39. Non-Conforming Lot: A lot lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the regulations of the district in which it is located.

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40. Non-Conforming Use: A use of a building or of land lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the use regulations of the district in which it is located.

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41. Nonprofit Organization: Nonprofit organization shall include, but not be limited to, a not for profit organization, corporation, community chest, fund or foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association, and an organization exempt from taxation under Section 501 (c) of the Internal Revenue Code of 1986 organized or incorporated in this state or another state of having a principal place of business in this state or in another state.

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42. Parking Space, Off-Street: A rectangular area, not less than 9 X 18.5 feet forming a parking stall within or without a structure, not located in any public right-of-way.

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43. Planning Board: A seven member legislative body charged with the duty to prepare and amend the Town of Merrimack Master Plan, prepare and amend a capital improvements program, the formulation of proposed amendments to the Merrimack Zoning Ordinance, and the review and approval of subdivision plans and site plans, and other duties as set forth in RSA 674:1.

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Section 1.03 - Definitions (continued)

44. Planning & Zoning Administrator: An appointed official whose responsibilities include administration and enforcement the zoning ordinance of the Town of Merrimack.

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45. Public Hearing: A publicly advertised meeting of an official legislative or quasi-judicial body conducting Town business during which the public is allowed to give testimony concerning issues under consideration.

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46. Public Land and Institutions: All publicly owned land and facilities such as schools, parks and conservation land, museums, libraries, administration and maintenance building and grounds, police and fire stations, utility sites and utility rights-of-way and easements.

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47. Restaurant: An establishment whose principal business is selling food and beverages in a ready-to-consume state whether said food and beverages are consumed on or off the premises.

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- a) Restaurant, carry-out: An establishment which sells food and beverages in a ready-to-consume state where no provisions are made for consumption on the premises.
- b) Restaurant, combination: An establishment which sells food and beverages in a ready-to-consume state which may be either consumed on or taken off of the premises.
- c) Restaurant, drive-in: An establishment which sells food and beverages in a ready-to-consume state primarily for consumption on the premises by persons in parked motor vehicles.
- d) Restaurant, sit-down: An establishment which sells food and beverages in a ready-to-consume state primarily to persons who are seated within the building or outside on the premises.

48. Seasonal Building or Structure: A building or structure, usually but not always a dwelling unit, which was originally designed to be occupied only during the warm months of the year, not during winter; such a structure may not have been originally built with insulation or any permanent, central heating system; such a structure, when originally constructed, may not have had a septic system designed for year round use. (Reference 9.02.E)

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Section 1.03 - Definitions (continued)

49. Self-Storage Facility: A building, group of buildings or other facility having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for, by customers for the storage of non-toxic, non-explosive personal or business goods or property, and where the facility owner/operator has limited access to the units. For purposes of this Ordinance, "self-storage facility" shall be considered synonymous with self-storage warehouse, self-service storage facility, mini-warehouse or mini-storage.

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50. Setback, Front Yard: Open space extending across the full width of lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building or any enclosed portion thereof.

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51. Setback, Rear Yard: Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building or any enclosed portion thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. When the rear lot line is less than 10 feet long or if the lot comes to a point at the rear, the depth of the rear yard is measured to an assumed rear lot line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.

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52. Setback, Side Yard: Open space between the side lot line, and the nearest line of the principal buildings, or any enclosed portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the principal building or any enclosed portion thereof.

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53. Setback, Yard: A required open space on a lot unoccupied and unobstructed by any principal structure or portion thereof, except for such projections into any required open space as are expressly permitted herein.

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54. Special Exception: Uses authorized under the Zoning Ordinance subject to appropriate conditions and safeguards as set forth in the ordinance as may be approved by the Zoning Board of Adjustment. Applicants for a special exception need not prove hardship but must comply with all other applicable zoning laws and any conditions for approval imposed by the Zoning Board.

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55. Street: Class V Highway or better, as defined in RSA 229:5(VI).

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56. Structural Alterations: Any change in the supporting members of a building or structure, such as walls, columns, beams or girders.

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 1.03 - Definitions (continued)

57. Structure: Anything constructed or erected, the use of which demands its permanent location on the land, or anything attached to something permanently located on the land.

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58. Travel Trailer: A mobile home designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty-five hundred (4500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.

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59. Variance: A grant of permission by the Zoning Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of the zoning laws, could not otherwise legally be done.

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60. Wetlands: "Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

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61. Zoning Board of Adjustment: A quasi-judicial body which hears and decides matters relating to the application of the zoning ordinance and considers appeals from the decisions of the Planning & Zoning Administrator and Building Official and considers variance and special exception applications.

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SECTION 2 - ESTABLISHMENT OF DISTRICTS [revised **TBD**]

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2.01 - The Town of Merrimack is hereby divided into twelve districts:

- R. Residential District
- C-1. Limited Commercial District
- C-2. General Commercial District
- I-1. Industrial District
- I-2. Industrial District
- I-3. Industrial District
- W. Wetland Conservation District
- F. Flood Hazard Conservation District
- E. Elderly Zoning District
- PRD. Planned Residential District
- A. Aquifer Conservation District
- SP. Shoreland Protection District

The location and boundaries of districts are and shall be as shown on the Zoning Map, the Wetlands Conservation District Map, the Flood Hazard Conservation District Map, the Soils Limitation District Photo Maps, the Elderly Zoning District Map, and the Planned Residential District Map which are hereby declared to be a part of this ordinance.

2.01.1 - Industrial District - Metes and Bounds, I-1, I-2, I-3

- A. From Souhegan River North to Bedford line from Merrimack River to 200 feet west of the railroad tracks and the extension of the industrial zone in the area of the B&M Railroad at the northerly side of the Souhegan River as mapped [including all of Tax Map Parcels 6D-1/75 except for that portion of the parcel south and west of the southwesterly property line of Tax Map Parcel 6D-1/76 and north and west of a line drawn from the southwestern corner of Tax Map Parcel 6D-1/76 to a point at a jog in the southwesterly boundary line of Tax Map Parcel 6D-1/75, said point being approximately 249 feet east of the Front Street Right-of-Way, and all of Tax Map Parcels 6D-1/76, 6E-2/60 and 6E-2/61 but excluding all of Tax Map Parcels 6D-1/69 and 75-4, 6E-1/5, 7, 8, 9, 10, 10-1, 11, 12, 13, 38, 37, 36, 35, 34, 33 and 6E-2/39.
- B. Beginning at a point at the intersection of the westerly right-of-way line of Camp Sargent Road and the southerly right-of-way line of Continental Boulevard; thence
 - 1. Westerly along the said southerly right-of-way line of Continental Boulevard, a distance of seven hundred ninety (790) feet, more or less, to a point at the most westerly corner of Lot 4D/54-4 and the most northerly corner of Lot 3D/3; thence
 - 2. Southeasterly along the southwesterly line of said line of said Lot 4D/54-4 and Lot 4D/53 and the northeasterly line of said Lot 3D/3, a distance of three hundred sixty-nine (369) feet, more or less, to a point on the westerly line of Lot 3D/18; thence

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.2 - District C-1, Limited Commercial - Permitted Uses (continued)

- b) Cafes,
 - c) Residential (other than a Planned Unit Development), and
 - d) Accessory uses as defined herein;
2. Provided that it finds that all of the following conditions are met:
- a) The specific site is an appropriate location for such a use or uses in terms of overall community development.
 - b) The use as developed will not adversely affect the neighborhood.
 - c) There will be no nuisance or serious hazard to vehicles or pedestrians.
 - d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use or uses.

D. Conditional Use Permits:

1. Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (Non-Cultivation Location) within the C-1 District.
2. Purpose & Intent: The purpose of this Section is to implement NH RSA 126-X, authorizing the use of therapeutic cannabis and to regulate the locations and operations of Alternative Treatment Center uses, so as to promote and protect the public health, safety, and welfare of the residents of Merrimack. It is neither the intent nor the effect of this Section to condone or legitimize the use or possession of marijuana except as allowed by NH State Law. The intent of this Section is to:
 - a) Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under RSA 126-X and as managed by the New Hampshire Department of Health & Human Services; and
 - b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health safety concerns.
3. The following criteria must be satisfied in order for the Planning Board to grant a Conditional Use Permit for Alternative Treatment Centers (Non-Cultivation Location):
 - a) An Alternative Treatment Center shall not be located within one thousand (1,000) feet of the property line of a public or private elementary or secondary school or designated drug free school zone; and

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.2 - District C-1, Limited Commercial - Permitted Uses (continued)

- b) The Alternative Treatment Center shall be located in a permanent structure and may not be located in a trailer, manufactured home, cargo container, or any structure that has axles with wheels. Drive-Thru services at an Alternative Treatment Center are prohibited; and
- c) The Alternative Treatment Center shall provide for the proper disposal of cannabis remnants or byproducts, which remnants or byproducts shall not be placed in the facility's exterior refuse containers; and
- d) The applicant shall provide a detailed narrative and floor plan, as well as any other relevant documentation, describing how the Alternative Treatment Center shall be secured. The security plan must take into account the measures that will be taken to ensure the safe delivery of any product to the facility (including permitted times for delivery), how the product will be secured on site, and how patient transactions will be facilitated in order to ensure safety. The security plan shall be reviewed and approved by the Merrimack Police Department; and
- e) The use of cannabis on the premises is prohibited; and
- f) The Alternative Treatment Center shall emit no cannabis related fumes, vapors or odors which can be smelled or otherwise perceived from beyond the lot lines of the property where the facility is located.

E. A buffer shall be erected and maintained to screen between commercial and existing residential uses. Buffers may be fence screens, dense plantings of suitable trees and shrubbery, or naturally occurring shrubs and trees.

2.02.3 - District C-2, General Commercial - Permitted Uses

A. In recognition of the demand created by Merrimack's strategic location and continuing growth, commercial areas are hereby designated allowing for the establishment of retail businesses.

A criterion in their location must be readily accessible to high traffic volume carrying facilities to allow not only for the stores and facilities themselves but also for parking, landscaping, and ancillary requirements as well. The primary function of this district use would be to serve a regional and/or local shopping and service need.

B. Only the following uses are permitted in the general commercial district. Such uses shall be primarily conducted inside a building:

1. Stores for sale of goods at retail or performance of regional customary personal services, or services clearly incidental to retail sales including services and construction materials, but no fabrication or manufacturing except incidental to, and on the same premises with, such retail sales, provided such incidental fabrication is conducted entirely within a building and does not occupy more than 20% of the floor area used for business purposes. Specifically excluded are "big box", single user retail stores greater than 75,000 square feet.
2. Business, professional, or banking offices.

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.3 - District C-2, General Commercial - Permitted Uses (continued)

- 7) Twice yearly inspections and bonding required: a) the structural integrity of all towers, whether in use, abandoned or unused, shall be inspected at least twice a year; b) copies of inspection reports shall be filed with the Community Development Department within thirty (30) days of the inspection; c) all owners of commercial wireless telecommunication towers shall obtain and maintain a bond to cover the cost of removal of abandoned, unused towers or portions of towers. d) the amount of said bond shall be reviewed by the Town every five (5) years to ensure the amount of security is adequate and may be increased if necessary; e) failure to file the required biannual inspection report with the Community Development Department within the specified time-frame shall constitute sufficient grounds to cause the bond to be called.
- 8) Permit Required: a) building permits shall be obtained for all towers, accessory structures and antennae; b) the number of users and the total number of antennae on any individual tower shall not exceed that which is permitted under the site plan approved by the Merrimack Planning Board.
- c) Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, potential interference, and co-location costs which would make co-location impractical.

D. Conditional Use Permit: Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (Non-Cultivation Location) and Self-Storage Facilities within the C 2 District.

1. Alternative Treatment Centers (Non-Cultivation Location): Subject to the requirements of Section 2.02.2.D, Subsections 2 and 3.

2. Self Storage Facilities

- a) Purpose & Intent: Self-Storage Facilities have characteristics in common with both commercial uses and industrial uses. This subsection provides regulations to appropriately site Self-Storage Facilities in the C-2 District while maintaining the desired character and function of those zones. In general, Self-Storage Facilities generate low levels of vehicular and pedestrian activity and typically do not contribute to the vitality of a commercial area compared to other commercial uses. Historically self-storage facilities have visually resembled industrial facilities, but some trends in the industry have featured designs compatible with higher quality commercial development. If designed appropriately as stand-alone structures that emulate the exterior architecture of residential or multi-family residential or as components located within larger commercial/ office developments, Self-Storage Facilities may be located without adversely impacting the intent of the C-2 District or surrounding neighborhoods, provided the criteria below are satisfied.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.3 - District C-2, General Commercial - Permitted Uses (continued)

b) The following criteria must be satisfied in order for the Planning Board to grant a Conditional Use Permit for Self-Storage Facilities:

- 1) Granting of the application would meet some public need or convenience;
- 2) Granting of the application is in the public interest;
- 3) The property in question is reasonably suited for the use requested;
- 4) The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties;
- 5) There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion;
- 6) Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping the fixtures for other purposes;
- 7) If the facility abuts residentially zoned property, the facility loading bays, docks or doors shall not be visible from the residential property or from public rights-of-way;
- 8) In order to promote visual compatibility with commercial development allowed in commercial zones, Self-Storage Facility buildings shall incorporate appropriate landscaping/screening and architectural and design features common to commercial and/or multifamily development. (Examples of such architectural and design features include: massing; proportion; facade modulation; exterior building materials and detailing; varied roofline; pedestrian scale; fenestration; repetition; etc.).

E. General Requirements:

Site Plan Review: In each case where a building or use is proposed in this district other than a single-family residence, the Building Official shall refer the site plan of the proposal to the Planning Board for its review in accordance with its subdivision and/or site review regulations. Such Board shall determine that all requirements of this ordinance have been met, and buffer protection provided to adjacent residential uses and, after holding a public hearing on each application, shall approve, approve with modifications, or disapprove said site plan. In modifying or disapproving any site plan, the Board shall enter its reasons for such actions in its records.

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.4 - District I-1 & I-2, Industrial - Permitted Uses (continued)

- 3) The antenna(s) and supporting electrical and mechanical equipment shall be a neutral color that is the same as the color as the supporting structure so as to make the antenna(s) and related equipment as visually unobtrusive as possible.
- 4) All utility buildings and structures accessory to the antenna(s) shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.

C. Alternative Treatment Centers Permitted in the I-1 District by Conditional Use Permit

1. Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (both Cultivation and Non-Cultivation Locations) within the I-1 District, subject to the requirements of Section 2.02.2.D, Subsections 2 and 3.

D. Mixed Use Developments Permitted in the I-1 District by Conditional Use Permit

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Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for mixed uses on parcels in the I-1 District consisting of a minimum of 50 acres provided there is compliance with the terms of this section.

1. Purpose

The purpose of this section is to permit mixed uses which allow the creative integration of industrial, commercial and residential housing developments based on a master site development plan that permits flexibility in the design and integration of the permitted uses contained therein. The permitted mixed uses are intended to be complementary, so as to provide for the appropriate use of the land, fiscally beneficial development, the efficient provision of public services, and expanded opportunities for a diversity of residential development outside the traditional residential districts.

Conditional Use Permits are limited to single consolidated tracts of land situated in the I-1 Industrial District that:

- a. Are a minimum of 50 acres in size;
- b. Are serviced by municipal sewer;
- c. Are serviced by the Merrimack Village District or Pennichuck Water Works;
- d. Have 500 (five hundred) feet of continuous frontage on the State maintained portions of Daniel Webster Highway located south of Star Drive to the Nashua City Line, or north of Bedford Road to the Bedford Town Line.

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.4 - District I-1 & I-2, Industrial - Permitted Uses (continued)

E. Special Exceptions

The Zoning Board of Adjustment may grant a special exception for the following uses of lands within the Industrial Districts I-1 & I-2:

1. Accessory uses as defined herein.
2. Other industrial uses except waste disposal sites and dumps, upon the approval by the Board of Adjustment such uses are of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses, shall be permitted. This may include the conversion of existing residential uses to commercial or industrial uses as are allowed and provided for in paragraph B. of this section.
3. On-site caretakers lodges or residences.
4. For the purpose of determining whether an applicant shall be granted a special exception as provided in this section, the Zoning Board of Adjustment shall use the special exception criteria set forth in a-d only, subsection B.1, Special Exceptions, Section 2.02.1 District R, Residential Zone.

F. Alternative Treatment Centers Permitted in the I-2 District by Conditional Use Permit

1. Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (both Cultivation and Non-Cultivation Locations) within the I-2 District, subject to the requirements of Section 2.02.2.D, Subsections 2 and 3.

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G. General Requirements

Site Plan Review: In each case where a building or use is proposed in these districts other than a single-family residence, the Building Official shall refer the site plan of the proposal to the Planning Board for its review in accordance with Subdivision Regulations. The Planning Board shall determine that all requirements of this Ordinance have been met, including appropriate conditions and safeguards with respect to the adequacy of traffic access, circulation and parking, landscaping and screening. After holding a public hearing on each application, the Planning Board shall approve, approve with modification, or disapprove said site plan. In modifying or disapproving any site plan, the Board shall enter its reasons for such action in its records.

2.02.5 - District I-3, Industrial - Permitted Uses

A. District Objectives

This district shall allow for establishment of manufacturing employment opportunities in the community and take into consideration the proximity of the town water supply wells and established residential uses adjacent to this district.

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SECTION 17 - SIGNS [revised *TBD*]

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17.01 - Purpose

The purpose of this article is to encourage the effective use of signage to direct movement, advertise, and inform the public while protecting public safety, preserving neighborhood character and minimizing visual clutter.

17.02 - Governmental Signs and Signs Required By Law

Nothing in this section shall prevent the erection, location or construction of signs on private property where such erection, construction or location is required by any law or ordinance enacted by the local, state or federal governments, nor shall any village district or municipally operated utility be prohibited from erecting signs on private property when otherwise permitted.

17.03 - Permit Required

No sign shall be erected or affixed to any building exterior or placed freestanding on any premises or altered or moved, without a permit issued by the Building Official and approved by Planning/Zoning Administrator except as otherwise exempted in this ordinance.

17.04 - Definitions

The following definitions shall apply throughout these regulations.

1. *Awning*: a removable shelter of canvas, plastic, metal or some other material, extending over a doorway or window and providing shelter from rain or sun.
2. *Awning Sign*: a sign affixed to the surface of an awning but not extending above below or beyond the awning surface.
3. *Banner Sign*: a temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. Flags and insignias containing only markings of any government, corporation or business are not considered to be banners.
4. *Building Face or Wall*: all window and wall area of a building in one plane or elevation.
5. *Changeable Copy Sign*: a sign on which message copy can be changed through use of attachable letters and numerals excluding electronic switching of lamps or illuminated tubes to form words and numerals. *Changeable copy sign* includes a sign which has automatic switching, limited to time and temperature.
6. *Construction or Project Sign*: a sign erected on a project site prior to or during a construction project.
7. *Directional Sign*: a sign identifying site locations, entrances, exits, parking areas,

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 17.10 - Commercial and Industrial Districts (continued)

Section 11.10 Subdivision Regulations of the Town of Merrimack; and

- d) The owner/installer of Electronic Message Displays shall certify as part of the application that signs will not exceed the brightness levels specified in Section 11.10 Subdivision Regulations of the Town of Merrimack.

12. Signage Requirements for Alternative Treatment Centers

- a) Alternative Treatment Centers (Non-Cultivation Locations) that have received a Conditional Use Permit and Site Plan approval from the Planning Board shall be subject to following requirements:
 - 1) Any displays of merchandise, signs, or any other exhibit depicting the activities of the Alternative Treatment Center placed within the interior of the registered premises shall be arranged or screened to prevent public viewing from outside such building or premises.
 - 2) One (1) wall sign which displays the business name and logo, and which meets the size requirements of Section 17.10.4 is permitted.
 - 3) A business name and logo may be used in labeling, signage, and other materials, however, the use of medical symbols, images of cannabis or cannabis products, related cannabis paraphernalia, and colloquial references to cannabis or marijuana shall be prohibited from use in the business name or logo.
 - 4) Exterior signage shall not be illuminated during non-business hours. Illumination of signage shall otherwise comply with all applicable illumination requirements of the Subdivision and Site Plan Regulations.
- b) Alternative Treatment Centers (Cultivation Locations) shall not be permitted to have any exterior signage other than that indicating the property's address.

17.11 - Off-Premise Advertising Signs

Off premise advertising signs may be erected on parcels of real estate within, and only within, the Commercial and Industrial zones. Off premise advertising signs shall be limited to Ground Signs conforming to the regulations provided in Section 17.10.3.

A premise may display either an On-Premise sign or an Off-Premise sign, but not both, unless it has enough frontage to display two signs (as described in 17.10.3) in which case one sign may be devoted to on-premise advertising and one sign devoted to off-premise advertising.

TITLE X

PUBLIC HEALTH

CHAPTER 126-X

USE OF CANNABIS FOR THERAPEUTIC PURPOSES

Section 126-X:1

126-X:1 Definitions. – In this chapter:

I. "Alternative treatment center" means a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients and alternative treatment centers.

II. "Alternative treatment center agent" means a principal officer, board member, employee, manager, or volunteer of an alternative treatment center who is 21 years of age or older and has not been convicted of a felony or any felony drug-related offense.

III. "Cannabis" means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.

IV. "Cultivation location" means a locked and enclosed site, under the control of an alternative treatment center where cannabis is cultivated, secured with one or more locks or other security devices in accordance with the provisions of this chapter.

V. "Department" means the department of health and human services.

VI. "Designated caregiver" means an individual who:

(a) Is at least 21 years of age;

(b) Has agreed to assist with one or more (not to exceed 5) qualifying patient's therapeutic use of cannabis, except if the qualifying patient and designated caregiver each live greater than 50 miles from the nearest alternative treatment center, in which case the designated caregiver may assist with the therapeutic use of cannabis for up to 9 qualifying patients;

(c) Has never been convicted of a felony or any felony drug-related offense; and

(d) Possesses a valid registry identification card issued pursuant to RSA 126-X:4.

VII. (a) "Provider" means a physician licensed to prescribe drugs to humans under RSA 329 and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances. "Provider" shall also mean an advanced practice registered nurse licensed pursuant to RSA 326-B:18.

(b) For a visiting qualifying patient, "provider" means an individual licensed to prescribe drugs to humans in the state of the patient's residence and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances. Such visiting patient shall not be eligible to purchase or transfer cannabis from an eligible New Hampshire patient.

VIII. "Provider-patient relationship" means at least a 3-month medical relationship between a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a treatment plan appropriate for the licensee's medical specialty.

IX. (a) "Qualifying medical condition" means the presence of:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, agitation of Alzheimer's disease, multiple sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, or one or more injuries that significantly interferes with daily activities as documented by the patient's provider; and

(2) A severely debilitating or terminal medical condition or its treatment that has produced at least one of the following: elevated intraocular pressure, cachexia, chemotherapy-induced anorexia, wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects, constant or severe nausea, moderate to severe vomiting, seizures, or severe, persistent muscle spasms.

(b) The department may include a medical condition that is not listed in subparagraph (a) that the department determines, on a case by case basis, is severely debilitating or terminal, based upon the written request of a provider who furnishes written certification to the department.

X. "Qualifying patient" means a resident of New Hampshire who has been diagnosed by a provider as having a qualifying medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-X:4.

XI. "Registry identification card" means a document indicating the date issued and expiration date by the department pursuant to RSA 126-X:4 that identifies an individual as a qualifying patient or a designated caregiver.

XII. "Seedling" means a cannabis plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

XIII. "Therapeutic use" means the acquisition, possession, cultivation, preparation, use, delivery, transfer, or transportation of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a qualifying patient's qualifying medical condition or symptoms or results of treatment associated with the qualifying patient's qualifying medical condition. It shall not include:

- (a) The use of cannabis by a designated caregiver who is not a qualifying patient; or
- (b) Cultivation or purchase by a visiting qualifying patient; or
- (c) Cultivation by a designated caregiver or qualifying patient.

XIV. "Unusable cannabis" means any cannabis, other than usable cannabis, including the seeds, stalks, and roots of the plant.

XV. "Usable cannabis" means the dried leaves and flowers of the cannabis plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-cannabis ingredients combined with cannabis and prepared for consumption as food or drink.

XVI. "Visiting qualifying patient" means a patient with a qualifying medical condition who is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30 days and is not eligible to purchase therapeutic cannabis in New Hampshire or receive cannabis from a qualifying New Hampshire patient.

XVII. "Written certification" means documentation of a qualifying medical condition by a provider pursuant to rules adopted by the department pursuant to RSA 541-A for the purpose of issuing registry identification cards, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a provider-patient relationship of at least 3 months in duration. The 3-month requirement for the provider-patient relationship required in this paragraph shall not apply if the provider issuing the written certification certifies that the onset of the patient's qualifying medical condition occurred within the past 3 months, and the certifying provider is primarily responsible for the patient's care related to his or her qualifying medical condition. The date of issuance and the patient's qualifying medical condition, symptoms or side effects, the certifying provider's name, medical specialty, and signature shall be specified on the written certification.

Section 126-X:2

126-X:2 Therapeutic Use of Cannabis Protections. –

I. A qualifying patient shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege for the therapeutic use of cannabis in accordance with this chapter, if the qualifying patient possesses an amount of cannabis that does not exceed the following:

- (a) Two ounces of usable cannabis; and
- (b) Any amount of unusable cannabis.

II. A designated caregiver shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege for the therapeutic use of cannabis in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses an amount of cannabis that does not exceed the following:

- (a) Two ounces of usable cannabis, or the total amount allowable for the number of qualifying patients for which he or she is a designated caregiver; and
- (b) Any amount of unusable cannabis.

III. A designated caregiver may receive compensation for costs, not including labor, associated with assisting a qualifying patient who has designated the designated caregiver to assist him or her with the therapeutic use of cannabis. Such compensation shall not constitute the sale of controlled substances.

IV. (a) A qualifying patient is presumed to be lawfully engaged in the therapeutic use of cannabis in accordance with this chapter if the qualifying patient possesses a valid registry identification card and possesses an amount of cannabis that does not exceed the amount allowed under this chapter.

(b) A designated caregiver is presumed to be lawfully engaged in assisting with the therapeutic use of cannabis in accordance with this chapter if the designated caregiver possesses a valid registry identification card and possesses an amount of cannabis that does not exceed the amount allowed under this chapter.

(c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying patient's qualifying medical condition or symptoms or effects of the treatment associated with the qualifying medical condition, in accordance with this chapter.

V. A valid registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess cannabis for therapeutic purposes, shall have the same force and effect as a valid registry identification card issued by the department in this state, provided that:

(a) The visiting qualifying patient shall also produce a statement from his or her provider stating that the visiting qualifying patient has a qualifying medical condition as defined in RSA 126-X:1; and

(b) A visiting qualifying patient shall not cultivate or purchase cannabis in New Hampshire or obtain cannabis from alternative treatment centers or from a qualifying New Hampshire patient.

VI. A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied such a right solely for conduct allowed under this chapter, and there shall be no presumption of neglect or child endangerment.

VII. For the purposes of medical care, including organ transplants, a qualifying patient's authorized use of cannabis in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a provider, and shall not constitute the use of an illicit substance.

VIII. A provider shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing entity, solely for providing written certifications, provided that nothing shall prevent a

professional licensing entity from sanctioning a provider for failing to properly evaluate a patient's medical condition.

IX. An alternative treatment center shall not be subject to prosecution under state or municipal law, search, or inspection, except by the department pursuant to RSA 126-X:7, IX; seizure; or penalty in any manner under state or municipal law for acting pursuant to this chapter and department rules to:

- (a) Acquire or purchase cannabis seeds or seedlings;
- (b) Possess, cultivate, manufacture, or transport cannabis and seedlings; or
- (c) Deliver, transfer, supply, sell, or dispense cannabis and related supplies and educational materials to qualifying patients who have designated the alternative treatment center to provide for them, to designated caregivers on behalf of the qualifying patients who have designated the alternative treatment center, or to other alternative treatment centers.

X. An alternative treatment center agent shall not be subject to arrest by state or local law enforcement, prosecution or penalty in any manner under state or municipal law, search, or denied any right or privilege for working for an alternative treatment center pursuant to this chapter and department rules to engage in any of the actions listed in paragraph IX.

XI. Any cannabis, cannabis paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the therapeutic use of cannabis as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the seizure or forfeiture is activity related to cannabis that is exempt from state criminal penalties under this chapter.

XII. An individual shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, simply for being in the presence or vicinity of the therapeutic use of cannabis as allowed under this chapter.

XIII. If a state or local law enforcement officer encounters an alternative treatment center or an individual who the officer knows is an alternative treatment center agent, a designated caregiver, or a qualifying patient, or who credibly asserts he or she is an alternative treatment center agent, a designated caregiver, or a qualifying patient, the law enforcement officer shall not provide any information concerning any cannabis-related activity involving the individual or entity, except pursuant to a lawfully-issued subpoena, to any law enforcement agency that does not recognize the protection of this chapter, and any prosecution of the individual or entity for a violation of this chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in cases where the state or local law enforcement agency has probable cause to believe the person is distributing cannabis to a person who is not allowed to possess it under this chapter. Any seizure of cannabis by law enforcement officers for a violation of this chapter shall be limited to the amount of cannabis in excess of the quantities permitted under this chapter and any such cannabis seized shall not be returned.

XIV. A person who ceases to be a qualifying patient or designated caregiver shall have 10 days after notification by the department to dispose of cannabis in one of the following ways:

- (a) If the person was a designated caregiver and the qualifying patient who designated the caregiver is still a qualifying patient, but has designated a new caregiver, the designated caregiver may transfer cannabis to the new designated caregiver;
- (b) The person may notify local law enforcement and request that they dispose of the cannabis; or
- (c) The person may dispose of the cannabis, after mixing the cannabis with other ingredients such as soil to render it unusable.

Source. 2013, 242:1, eff. July 23, 2013.

Section 126-X:3

126-X:3 Prohibitions and Limitations on the Therapeutic Use of Cannabis. –

I. A qualifying patient may use cannabis on privately-owned real property only with written

permission of the property owner or, in the case of leased property, with the permission of the tenant in possession of the property, except that a tenant shall not allow a qualifying patient to smoke cannabis on rented property if smoking on the property violates the lease or the lessor's rental policies that apply to all tenants at the property. However, a tenant may permit a qualifying patient to use cannabis on leased property by ingestion or inhalation through vaporization even if smoking is prohibited by the lease or rental policies. For purposes of this chapter, vaporization shall mean the inhalation of cannabis without the combustion of the cannabis.

II. Nothing in this chapter shall exempt any person from arrest or prosecution for:

(a) Being under the influence of cannabis while:

(1) Operating a motor vehicle, commercial vehicle, boat, vessel, or any other vehicle propelled or drawn by power other than muscular power; or

(2) In his or her place of employment, without the written permission of the employer; or

(3) Operating heavy machinery or handling a dangerous instrumentality.

(b) The use or possession of cannabis by a qualifying patient or designated caregiver for purposes other than for therapeutic use as permitted by this chapter;

(c) The smoking or vaporization of cannabis in any public place, including:

(1) A public bus or other public vehicle; or

(2) Any public park, public beach, or public field.

(d) The possession of cannabis in any of the following:

(1) The building and grounds of any preschool, elementary, or secondary school, which are located in an area designated as a drug free zone; or

(2) A place of employment, without the written permission of the employer; or

(3) Any correctional facility; or

(4) Any public recreation center or youth center; or

(5) Any law enforcement facility.

III. Nothing in this chapter shall be construed to require:

(a) Any health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the therapeutic use of cannabis; or

(b) Any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use cannabis on or in that property; or

(c) Any accommodation of the therapeutic use of cannabis on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.

IV. Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the therapeutic use of cannabis to avoid arrest or prosecution shall be guilty of a violation and may be fined \$500, which shall be in addition to any other penalties that may apply for making a false statement to a law enforcement officer or for the use of cannabis other than use undertaken pursuant to this chapter.

V. A qualifying patient or designated caregiver who is found to be in possession of cannabis outside of his or her home and is not in possession of his or her registry identification card may be subject to a fine of up to \$100.

VI. Any qualifying patient or designated caregiver who sells cannabis to another person who is not a qualifying patient or designated caregiver under this chapter shall be subject to the penalties specified in RSA 318-B:26, IX-a, shall have his or her registry identification card revoked, and shall be subject to other penalties as provided in RSA 318-B:26.

VII. The department may revoke the registry identification card of a qualifying patient or designated caregiver for violation of rules adopted by the department or for violation of any other provision of this chapter, and the qualifying patient or designated caregiver shall be subject to any other penalties

established in law for the violation.

Source. 2013, 242:1, eff. July 23, 2013.

Section 126-X:4

126-X:4 Departmental Administration; Registry Identification Cards. –

I. Except as provided in paragraph V, the department shall create and issue a registry identification card to a person applying as a qualifying patient who submits all of the following information:

- (a) Written certification as defined in RSA 126-X:1.
- (b) An application or a renewal application accompanied by the application or renewal fee.
- (c) A recent passport-sized photograph of the applicant's face.
- (d) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.
- (e) Name, address, and telephone number of the applicant's provider.
- (f) Name, address, and date of birth of the applicant's designated caregiver, if any. A qualifying patient shall have only one designated caregiver.
- (g) Name of the alternative treatment center that the qualifying patient designates. A qualifying patient may designate no more than one alternative treatment center at any time.
- (h) A statement signed by the applicant, pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this chapter and acknowledging that his or her diversion of cannabis is punishable as a class B felony and revocation of his or her registry identification card, in addition to other penalties for the illegal sale of cannabis.

II. Except as provided in paragraph V, the department shall create and issue a registry identification card to a person applying as a designated caregiver who submits all of the following information:

- (a) An application or a renewal application.
- (b) A recent passport-sized photograph of the applicant's face.
- (c) Name, residential and mailing address, and date of birth of the applicant.
- (d) Name, residential and mailing address, and date of birth of each qualifying patient for whom the applicant will act as designated caregiver, except that if the qualifying patient is homeless, no residential address is required. An applicant shall not act as a designated caregiver for more than 5 qualifying patients.
- (e) Street address of the alternative treatment center.
- (f) A signed statement from the applicant agreeing to act as the designated caregiver for the qualifying patient named in the application and pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this chapter and acknowledging that the diversion of cannabis is punishable as a class B felony and revocation of one's registry identification card, in addition to other penalties for the illegal sale of cannabis.
- (g) [Repealed.]

II-a. In addition to the information required pursuant to paragraph II, the department shall also receive results of a criminal history records check from the division of state police. A person applying to be a designated caregiver shall submit directly to the department of safety a notarized criminal history records release form, as provided by the New Hampshire division of state police, authorizing the release of his or her criminal history record, if any, to the department. The applicant shall submit with the release form a complete set of electronic fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. In the event that the first set of fingerprints is invalid for whatever reason, a second set of fingerprints shall be necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years. The division of state police shall conduct a criminal

history records check through its records and through the Federal Bureau of Investigation. Upon completion of the records check, the division of state police shall submit a copy of the criminal history records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this section. The applicant shall bear the cost of a criminal history records check.

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section. The department shall approve or deny an application or renewal for a qualifying patient within 15 days of receipt of the application. The department shall approve or deny an application or renewal to serve as a designated caregiver within 15 days of receipt of the application and the criminal history records check results. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the applicant previously had a registry identification card revoked for violating the provisions of this chapter or rules adopted by the department, or if the department determines that the information provided was falsified or did not meet the requirements of this chapter or rules adopted by the department. The department shall notify an applicant of the denial of an application. An applicant who is aggrieved by a department decision may request an administrative hearing at the department.

IV. The department shall create and issue a registry identification card to a person applying as a qualifying patient or designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire one year after the date of issuance, unless the provider states in the written certification that the certification should expire at an earlier specified date, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

- (a) Name, mailing address, and date of birth of the qualifying patient or designated caregiver.
- (b) The date of issuance and expiration date of the registry identification card.
- (c) A random 10-digit identification number, containing at least 4 numbers and at least 4 letters, that is unique to the qualifying patient or the designated caregiver.
- (d) A designation that the person is either a "qualifying patient" or a "designated caregiver." If the person is a designated caregiver, the identification card shall include the random 10-digit identification number for each qualifying patient for whom he or she is providing care.
- (e) The registry identification number corresponding with the alternative treatment center the qualifying patient designated, if any.
- (f) A passport-sized photograph of the qualifying patient's or designated caregiver's face.
- (g) A statement that the qualifying patient or designated caregiver is permitted under state law to possess cannabis pursuant to this chapter for the therapeutic use of the qualifying patient.

V. The department shall not issue a registry identification card to an applicant under 18 years of age who is applying as a qualifying patient unless:

- (a) A custodial parent or legal guardian responsible for health care decisions for the qualifying patient submits a written certification from 2 providers, one of whom shall be a pediatrician.
- (b) The applicant's provider has explained the potential risks and benefits of the therapeutic use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the applicant.
- (c) The custodial parent or legal guardian with responsibility for health care decisions for the applicant consents in writing to:
 - (1) Allow the applicant's therapeutic use of cannabis; and
 - (2) Serve as the applicant's designated caregiver and control the acquisition of the cannabis and the frequency of the therapeutic use of cannabis by the applicant.
- (d) The custodial parent or legal guardian completes an application in accordance with the requirements of paragraph I on behalf of the applicant.

VI. The department shall provide each approved qualifying patient and designated caregiver a statement with the registry identification card explaining federal law on the possession of cannabis and

that possession of a state registry identification card does not protect a person from federal criminal penalties.

VII. (a) The department shall track the number of qualifying patients who have designated each alternative treatment center and issue a monthly written statement to the alternative treatment center identifying the number of qualifying patients who have designated that alternative treatment center along with the registry identification numbers of each qualifying patient and each qualifying patient's designated caregiver.

(b) The department shall track the number of qualifying patients certified by each provider and registered with the department. Any concerns regarding provider conduct shall be referred to the New Hampshire board of medicine or the New Hampshire board of nursing.

VIII. In addition to the monthly reports, the department shall also provide written notice to an alternative treatment center which identifies the names and registration identification numbers of a qualifying patient and his or her designated caregiver whenever any of the following events occur:

(a) A qualifying patient designates the alternative treatment center to serve his or her needs under this chapter;

(b) A qualifying patient revokes the designation of the alternative treatment center; or

(c) A qualifying patient who has designated the alternative treatment center loses his or her status as a qualifying patient under this chapter.

IX. (a) A qualifying patient shall notify the department before changing his or her designated caregiver or alternative treatment center.

(b) A qualifying patient shall notify the department of any change in his or her name or address within 10 days of such change. If the qualifying patient's certifying provider notifies the department in writing that the qualifying patient no longer suffers from a qualifying medical condition or should discontinue using cannabis for another compelling reason, the registry identification card shall become void upon notification by the department to the qualifying patient.

(c) When a qualifying patient or a designated caregiver notifies the department of any change to a name, address, or alternative treatment center, the department shall issue the qualifying patient or designated caregiver a new registry identification card with a new random 10-digit identification number within 20 days of receiving the updated information.

(d) If a qualifying patient notifies the department of a change in his or her designated caregiver and the prospective designated caregiver meets the requirements of this chapter, the department shall issue the designated caregiver a registry identification card with a new random 10-digit identification number within 50 days of receiving the designated caregiver's application.

(e) A qualifying patient or designated caregiver who fails to notify the department of any changes to his or her name, address, or designated caregiver shall be guilty of a violation and may be subject to a fine not to exceed \$150 under rules adopted by the department.

(f) If a qualifying patient or designated caregiver loses his or her registry identification card, he or she shall notify the department within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random 10-digit identification number. The fee for new registry cards shall be established in rules set by the department pursuant to RSA 541-A.

X. Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or property of the individual possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

XI. (a) The department shall create and maintain a confidential registry of each individual who has applied for and received a registry identification card as a qualifying patient or a designated caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain the qualifying patient's or designated caregiver's name, mailing address, date of birth, date of registry identification card

issuance, date of registry identification card expiration, random 10-digit identification number, and registry identification number of the qualifying patient's designated alternative treatment center, if any. The confidential registry and the information contained in it shall be exempt from disclosure under RSA 91-A.

(b)(1) Except as specifically provided in this chapter, no person shall have access to any information about qualifying patients or designated caregivers in the department's confidential registry, or any information otherwise maintained by the department about providers and alternative treatment centers, except for authorized employees of the department in the course of their official duties and local and state law enforcement personnel who have detained or arrested an individual who claims to be engaged in the therapeutic use of cannabis.

(2) If a local or state law enforcement officer submits a sworn affidavit to the department affirming that he or she has probable cause to believe cannabis is possessed at a specific address, an authorized employee for the department may disclose whether the location is associated with a qualifying patient, designated caregiver, or cultivation location of an alternative treatment center.

(3) If a local or state law enforcement officer submits a sworn affidavit to the department affirming that he or she has probable cause to believe a specific individual possesses cannabis, an authorized employee for the department may disclose whether the person is a qualifying patient or a designated caregiver, provided that the law enforcement officer provides the person's name and address or name and date of birth.

(4) Counsel for the department may notify law enforcement officials about falsified or fraudulent information submitted to the department where counsel has made a legal determination that there is probable cause to believe the information is false or falsified.

XII. Within 5 days of learning of the death of a qualifying patient, a surviving family member, caretaker, executor, or the patient's designated caregiver shall notify the department that the qualifying patient has died. Within 5 days of learning of the death of a qualifying patient, the surviving family member, caretaker, executor, or the patient's designated caregiver shall either request that the local law enforcement agency remove any remaining cannabis or shall dispose of the cannabis in a manner that is specified in 126-X:2, XIV.

Source. 2013, 242:1, eff. July 23, 2013. 2014, 72:1, 2, 4, II, eff. July 26, 2014.

Section 126-X:5

126-X:5 Affirmative Defense. –

I. It shall be an affirmative defense for any person charged with manufacturing, possessing, having under his or her control, selling, purchasing, prescribing, administering, transporting, or possessing with intent to sell, dispense, or compound cannabis, cannabis analog, or any preparation containing cannabis, if:

(a) The actor is a qualifying patient who has been issued a valid registry identification card, was in possession of cannabis in a quantity and location permitted pursuant to this chapter, and was engaged in the therapeutic use of cannabis; or

(b) The actor is a designated caregiver who has been issued a valid registry identification card was in possession of a cannabis in a quantity and location permitted pursuant to this chapter, and was engaged in the therapeutic use of cannabis on behalf of a qualifying patient.

II. This section shall not be construed as an affirmative defense for any offense other than those acts as set forth in paragraph I.

Source. 2013, 242:1, eff. July 23, 2013.

Section 126-X:6

126-X:6 Departmental Rules. –

I. Not later than one year after the effective date of this chapter, the department shall adopt rules, pursuant to RSA 541-A, governing:

(a) The form and content of applications for issuance and renewals of registry identification cards for qualifying patients and designated caregivers.

(b) The form and content of providers' written certifications.

(c) Procedures for considering, approving, and denying applications for issuance and renewals of registry identification cards, and for revoking registry identification cards.

(d) Fees pursuant to RSA 126-X:4, I(b) and paragraph II of this section for applications for registry identification cards, and pursuant to RSA 126-X:4, IX(f) for re-issuance of replacement registry identification cards.

(e) Fines pursuant to RSA 126-X:4, IX(e) for failure of the qualifying patient or designated caregiver to notify the department of any changes to his or her name, address, designated caregiver in the case of a qualifying patient, or alternative treatment center.

II. The department's rules shall establish application and renewal fees for registry identification cards in accordance with the following:

(a) The fee structure by the department for alternative treatment centers and registry identification cards shall generate revenues sufficient to offset all department expenses of implementing and administering this chapter; however,

(b) The department may accept donations from private sources without the approval of the governor and council in order to reduce the application and renewal fees for qualifying patients.

III. (a) Not later than 18 months after the effective date of this section, the department shall adopt rules, pursuant to RSA 541-A, governing alternative treatment centers and the manner in which it shall consider applications for registration certificates for alternative treatment centers, including, but not limited to:

(1) The form and content of registration and renewal applications.

(2) Administrative requirements.

(3) Security requirements, which shall include at a minimum, lighting, physical security, video security, alarm requirements, measures to prevent loitering, and on-site parking.

(4) Liability insurance.

(5) Sanitary requirements.

(6) Electrical safety requirements.

(7) The specification of acceptable forms of picture identification that an alternative treatment center may accept when verifying a sale.

(8) Personnel requirements including how many volunteers an alternative treatment center is permitted to have and requirements for supervision.

(9) Labeling standards.

(10) Procedures for suspending or terminating the registration of alternative treatment centers that violate the provisions of this chapter or the rules adopted pursuant to this chapter, a schedule of fines for such violations, and procedures for appealing any enforcement actions.

(11) Procedures for inspections and investigations.

(12) Advertising restrictions, including a prohibition of misrepresentation and unfair practices.

(13) Permissible hours of operation.

(14) The fees for the processing and review of applications for registration as an alternative treatment center and regulation of an alternative treatment center after it has been approved by the department. Such fees shall be established in an amount that covers all costs of the department for the review, registration, and regulation of alternative treatment centers.

(15) Procedures for determining and enforcing the daily maximum amount of therapeutic cannabis which an alternative treatment center may cultivate or possess pursuant to RSA 126-X:8, XV(a).

(b) The department shall adopt rules with the goal of protecting against diversion and theft, without

imposing an undue burden on the alternative treatment centers or compromising the confidentiality of qualifying patients and their designated caregivers.

Source. 2013, 242:1, eff. July 23, 2013.

Section 126-X:7

126-X:7 Departmental Administration; Alternative Treatment Centers. –

I. Within 18 months of the effective date of this section, provided that at least 2 applications have been submitted that score sufficiently high to receive a certificate, the department shall issue alternative treatment center registration certificates to the 2 highest-scoring applicants. Each registration certificate shall include a registry number that is unique to the alternative treatment center.

II. Any time an alternative treatment center registration certificate is revoked, relinquished, or expires without a renewal application being submitted, the department shall accept applications for a new alternative treatment center and issue a registration certificate to the applicant who scores the highest.

III. If at any time after 2 years after the effective date of this section, fewer than 4 alternative treatment centers hold valid registration certificates in New Hampshire, the department shall accept applications for a new alternative treatment center. No more than 4 alternative treatment centers shall hold valid registration certificates at one time.

IV. (a) An alternative treatment center applicant shall submit a completed department- approved application form with all required documentation and a nonrefundable fee in an amount set by department rule. The alternative treatment center application and supporting materials shall include, at a minimum:

(1) The legal name, articles of incorporation, and bylaws of the alternative treatment center.

(2) The proposed physical address of the alternative treatment center, if a precise address has been determined, or, if not, the general location where it would be located. This may include a second location for the cultivation of cannabis.

(3) A description of the enclosed, locked facility that would be used in the cultivation of cannabis by the alternative treatment center.

(4) The name, address, and date of birth of each principal officer and board member of the alternative treatment center. The board of directors for the nonprofit shall include at least one physician, advance practice registered nurse, or pharmacist licensed to practice in New Hampshire and at least one patient qualified to register as a qualifying patient. The majority of board members shall be New Hampshire residents. A medical professional listed in this subparagraph may be a member of the alternative treatment center board but shall not maintain an ownership interest in the center.

(5) Proposed security and safety measures that comply with the rules adopted pursuant to RSA 126-X:6, including a description of interior and exterior lighting and security systems.

(6) The distance from any pre-existing private or public school.

(7) A copy of the proposed policy regarding services to qualifying patients who cannot afford to purchase cannabis for therapeutic use.

(8) Information demonstrating the applicant's knowledge of organic growing methods to be used in the growing and cultivation of cannabis.

(9) Steps that will be taken to ensure the quality of the cannabis, including purity and consistency of dose.

(10) A start-up timetable that provides an estimated time from registration of the alternative treatment center to full operation and the assumptions used for the basis of those estimates.

(11) Information showing the applicant's experience running a nonprofit or other business.

(12) A description of any additional services that will be available to patients.

(13) The applicant's plans for recordkeeping and inventory control.

(b) Any time one or more alternative treatment center registration applications are being considered,

the department shall, in partnership with the local governing body of the town or city where the alternative treatment center would be located, solicit input from qualifying patients, designated caregivers, and the residents of the towns or cities in which the alternative treatment center would be located.

(c) Each time an alternative treatment center certificate is granted, the decision shall be based on the overall health needs of qualifying patients and the safety of the public. The department shall evaluate applications for alternative treatment center registration certificates using an impartial and numerically-scored competitive bidding process developed by the department in accordance with this chapter. The department shall require applicants to meet a minimum score to be considered. The registration considerations shall include the following criteria:

(1) The suitability of the proposed location, including compliance with any local zoning laws, and geographic convenience for qualifying patients from throughout the state of New Hampshire to alternative treatment centers if the application is approved. The department shall, to the greatest extent practicable, ensure that alternative treatment centers are geographically located so as to best serve the needs of qualifying patients.

(2) The proposed alternative treatment center's plan for operations and services, whether it has sufficient capital to operate, and its ability to provide a steady supply of cannabis to the qualifying patients in the state.

(3) The principal officer and board members' character and relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation and preparation, and their experience operating a nonprofit organization or business.

(4) The applicant's plan for making cannabis available on an affordable basis to qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance.

(5) The applicant's plan for safe and accurate packaging and labeling of cannabis, including the applicant's plan for ensuring that all cannabis is free of contaminants.

(6) The sufficiency of the applicant's plans for recordkeeping and inventory control. Records shall be considered confidential health care information under New Hampshire law and shall be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended. Any dispensing records that an alternative treatment center is required to keep shall document transactions according to qualifying patients' and designated caregivers' registry identification numbers, rather than their names, to protect their confidentiality.

(7) The sufficiency of the applicant's plans for safety and security, including proposed location and security devices employed.

(8) Whether the entity possesses or has the right to use sufficient land, buildings, and equipment to properly carry out its duties as an alternative treatment center.

V. After an alternative treatment center is approved, but before it begins operations, it shall submit the registration fee paid to the department in accordance with the rules adopted by the department. Annual fees thereafter shall be paid in accordance with the rules adopted by the department.

VI. [Repealed.]

VII. The alternative treatment center's certificate may be revoked at any time it commits a violation of this chapter or rules adopted by the department, including if it negligently or knowingly allows cannabis to be distributed to someone who is not exempt from penalties pursuant to this chapter.

VIII. Not more than one year after an alternative treatment center receives its first registry certificate, the department shall evaluate an alternative treatment center's operations. A registration certificate may be revoked if the alternative treatment center:

(a) Committed violations of this chapter or department rules; or

(b) Is not operational.

IX. Alternative treatment centers shall be subject to inspection by the department. During an inspection, the department may review the alternative treatment center's records, including its confidential dispensing and data collection records, which shall track transactions and product

effectiveness according to qualifying patients' registry identification numbers to protect their confidentiality.

Source. 2013, 242:1, eff. July 23, 2013. 2014, 72:4, I, eff. July 26, 2014.

Section 126-X:8

126-X:8 Alternative Treatment Centers; Requirements. –

I. An alternative treatment center shall be operated on a not-for-profit basis for the benefit of its patients. An alternative treatment center need not be recognized as a tax-exempt organization by the Internal Revenue Service.

II. An alternative treatment center shall not be located in a residential district or within 1,000 feet of the property line of a pre-existing public or private elementary or secondary school or designated drug free school zones.

III. An alternative treatment center shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing cannabis and the theft of cannabis and shall ensure that each location has an operational security alarm system.

IV. (a) An alternative treatment center shall conduct a state and federal criminal records check for every person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the alternative treatment center pursuant to RSA 126-X:4, II-a. An alternative treatment center shall not allow any person to be an alternative treatment center agent who:

- (1) Was convicted of a felony or felony drug-related offense; or
- (2) Is under 21 years of age.

(b) An alternative treatment center shall create an identification badge for each alternative treatment center agent before the alternative treatment center agent possesses, cultivates, or transports cannabis on behalf of the alternative treatment center. The badges may include the alternative treatment center's registration certificate number and either a unique number for each agent or his or her name.

(c) An alternative treatment center agent shall wear his or her badge at all times when working at an alternative treatment center, including at any cultivation location.

V. No person who has been convicted of a felony or felony drug-related offense shall be an alternative treatment center agent. A person who is employed by or is an agent, volunteer, principal officer, or board member of an alternative treatment center who violates this paragraph shall be guilty of a violation punishable by a fine of up to \$1,000. A subsequent violation of this paragraph shall be a misdemeanor.

VI. The operating documents of an alternative treatment center shall include procedures for the oversight of the alternative treatment center and procedures to ensure accurate recordkeeping.

VII. Each alternative treatment center shall keep the following records, in accordance with a records retention schedule established by the department:

(a) Records of the disposal of cannabis that is not distributed by the alternative treatment center to qualifying patients who have designated the alternative treatment center to cultivate for them.

(b) A record of each transaction, including the amount of cannabis dispensed, the amount of consideration, and the registry identification number of the qualifying patient, designated caregiver, or alternative treatment center, and the qualifying patient's provider.

VIII. Each alternative treatment center shall:

(a) Conduct an initial comprehensive inventory of all cannabis, including usable cannabis available for dispensing and mature cannabis plants at each authorized location on the date the alternative treatment center first dispenses cannabis.

(b) Conduct a monthly comprehensive inventory of all cannabis, including usable cannabis available for dispensing, mature cannabis plants, and seedlings at each authorized location.

IX. An alternative treatment center shall submit a department-approved incident report form on the next business day after it discovers a reportable incident. The report shall indicate the nature of the

breach and the corrective actions taken by the alternative treatment center. Reportable incident shall mean:

- (a) Confidential information accessed or disclosed in violation of department rules;
- (b) Loss of inventory by theft or diversion;
- (c) Unauthorized intrusion into the alternative treatment center or the additional location, if any;
- (d) Any known violation of this chapter or department rules by an alternative treatment center agent;

or

- (e) Any other incident that the department by rule requires to be reported.

X. Alternative treatment centers shall only use organic pesticides in cannabis.

XI. No cannabis or paraphernalia at an alternative treatment center shall be visible from outside the property of the alternative treatment center.

XII. An alternative treatment center shall submit an annual report to the department that shall provide information required by the department in order to allow the department to evaluate the effectiveness and operations of the alternative treatment center.

XIII. (a) Each time an alternative treatment center agent dispenses cannabis to a qualifying patient directly or through the qualifying patient's designated caregiver, he or she shall consult the alternative treatment center's records to verify that the records do not indicate that the dispensing of the cannabis would cause the qualifying patient to receive more cannabis than is permitted in a 10-day period. Each time cannabis is dispensed, the alternative treatment center agent shall record the date the cannabis was dispensed and the amount dispensed. All records shall be kept according to the registry identification number of the qualifying patient and designated caregiver, if any.

(b) Except as provided in subparagraph (c), a qualifying patient shall not obtain more than 2 ounces of usable cannabis directly or through the qualifying patient's designated caregiver during a 10-day period.

(c) After providing an opportunity for patients, experts, researchers, and physicians to be heard, the department may issue a rule adjusting the limit specified in subparagraph (a) to an amount that is reasonably necessary for a 10-day supply.

XIV. (a) Except when transporting cannabis in accordance with subparagraphs (b) or (c), an alternative treatment center agent shall only possess and manufacture cannabis at an alternative treatment center location at which alternative treatment center agents are employed. Volunteers shall only possess and manufacture cannabis at an alternative treatment center location. Volunteers shall not dispense cannabis.

(b) Distributions of cannabis to a qualifying patient or a designated caregiver for use by a qualifying patient shall be labeled with a document to identify the alternative treatment center, the patient's registry number, or the caregiver's number, the amount and form, the time and date of origin, and destination of the product.

(c) An alternative treatment center with an additional growing location shall label the cannabis that is being moved between the additional growing location and the alternative treatment center with a document that identifies the alternative treatment center by registry number, the time, date, origin, and destination of the material being transported, and the amount and form of cannabis and cannabis material that is being transported. Cannabis shall be transported only by an alternative treatment center agent who is not a volunteer.

XV. (a) An alternative treatment center shall not possess or cultivate cannabis in excess of the following quantities:

(1) Eighty cannabis plants, 160 seedlings, and 80 ounces of usable cannabis, or 6 ounces of usable cannabis per qualifying patient; and

(2) Three mature cannabis plants, 12 seedlings, and 6 ounces for each qualifying patient who has designated the alternative treatment center to provide him or her with cannabis for therapeutic use.

(b) An alternative treatment center or alternative treatment center agent shall not dispense, deliver, or otherwise transfer cannabis to any person or entity other than:

- (1) A qualifying patient who has designated the relevant alternative treatment center; or

(2) Such patient's designated caregiver; or

(3) Another alternative treatment center.

(c) All cultivation of cannabis shall take place in an enclosed, locked facility registered with the department and which can only be accessed by alternative treatment center agents.

XVI. (a) All cannabis dispensed by an alternative treatment center shall include a label specifying the weight of the cannabis and any other information the department requires to appear on the label. The label shall also specify that the cannabis is for therapeutic use and that diversion is a class B felony requiring revocation of one's registry identification card.

(b) Alternative treatment centers shall collect data on strains used and methods of delivery for qualifying conditions and symptoms, any side effects experienced, and therapeutic effectiveness for each patient who is willing to provide the information. Such data collection shall be done under the qualifying patient's registry identification number to protect the patient's confidentiality.

(c) An alternative treatment center shall provide educational materials about cannabis to qualifying patients and their registered primary caregivers. Each alternative treatment center shall have an adequate supply of up-to-date educational material available for distribution. Educational materials shall be available for inspection by the department upon request. The educational material shall at least include information about the following:

(1) Strains of cannabis, routes of administration, and their different effects. Alternative treatment centers shall have educational materials available to assist in the selection of prepared cannabis.

Alternative treatment centers shall provide tracking sheets to qualifying patients and their providers who request them to keep track of the strains used and their effects.

(2) How to achieve proper dosage for different modes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency shall also be explained.

(3) Information on tolerance, dependence, and withdrawal shall be provided.

(4) Information regarding substance abuse signs and symptoms shall be available, as well as referral information.

(5) Information on whether the alternative treatment center's cannabis and associated products meet organic certification standards.

(6) Information about possible side effects from the use of cannabis for therapeutic purposes.

XVII. (a) Each alternative treatment center shall develop, implement, and maintain on the premises employee and agent policies and procedures to address the following requirements:

(1) A job description or employment contract developed for all employees and a volunteer agreement for all volunteers, which includes duties, authority, responsibilities, qualifications, and supervision.

(2) Training in and adherence to confidentiality laws.

(3) The proper use of security measures and controls that have been adopted.

(4) Specific procedural instructions on how to respond to an emergency.

(b) All alternative treatment centers shall prepare training documentation for each employee and have employees sign a statement indicating the date, time, and place the employee received said training and topics discussed, to include name and title of presenters. The alternative treatment center shall maintain documentation of an employee's and a volunteer's training for a period of at least 6 months after termination of an employee's period of employment or the volunteer's period of voluntary service.

(c) Each alternative treatment center shall maintain a personnel record for each alternative treatment center agent that includes an application for employment or to volunteer and a record of any disciplinary action taken.

XVIII. A provider shall not:

(a) Accept, solicit, or offer any form of pecuniary remuneration from or to an alternative treatment center, except if the provider is employed by an alternative treatment center.

(b) Offer a discount or other thing of value to a patient who uses or agrees to use a particular

alternative treatment center.

(c) Examine a patient in relation to issuing a written certification at a location where cannabis is sold or distributed.

(d) Hold an economic interest in an alternative treatment center if the provider issues written certifications to patients.

Source. 2013, 242:1, eff. July 23, 2013. 2014, 72:3, eff. July 26, 2014.

Section 126-X:9

126-X:9 Therapeutic Use of Cannabis Advisory Council. –

I. There is hereby established a therapeutic use of cannabis advisory council comprised of:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the senate president.

(c) The commissioner of the department of health and human services, or designee.

(d) The commissioner of the department of safety, or designee.

(e) The attorney general, or designee.

(f) One physician with experience in therapeutic use of cannabis issues, appointed by the New Hampshire Medical Society.

(g) One advanced practice registered nurse, appointed by the New Hampshire Nurse Practitioner Association.

(h) One representative of a community hospital, appointed by the governor.

(i) One representative of the New Hampshire Civil Liberties Union.

(j) One qualifying patient, appointed by the governor.

(k) One member of the public, who is not a law enforcement officer, employee of a government agency, contractor for a government agency, elected official, or healthcare provider, appointed by the governor.

(l) One member from a hospital in New Hampshire, appointed by the governor.

(m) One member from the board of medicine, appointed by the executive director of the board of medicine.

(n) One member from the board of nursing, appointed by the executive director of the board of nursing.

(o) A member of the New Hampshire Association of Chiefs of Police, appointed by the association.

II. The advisory council shall:

(a) Assist the department in adopting and revising rules to implement this chapter.

(b) Collect information, including:

(1) Satisfaction of qualifying patients with the therapeutic use of cannabis program.

(2) Any effect the therapeutic use of cannabis law has had on referrals to regulatory boards.

(3) Best practices in other states that allow the therapeutic use of cannabis.

(4) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality cannabis.

(5) Any research studies regarding health effects of cannabis for patients.

(6) The effectiveness of New Hampshire's therapeutic use of cannabis program.

(7) Efforts to educate New Hampshire physicians and advanced practice registered nurses about research relating to the therapeutic use of cannabis.

(8) The effectiveness of alternative treatment centers, individually and collectively, in serving the needs of qualifying patients, including the therapeutic effectiveness of available products, the provision of educational and support services, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the registered

qualifying patients of New Hampshire.

(9) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to persons authorized for such purposes.

(10) Any illegal distribution or diversion of cannabis cultivated pursuant to this chapter to individuals who are not alternative treatment center agents, qualifying patients, or designated caregivers.

(11) Any statutory issues related to the certification of qualifying patients including, but not limited to, the definition of qualifying medical conditions, the certification process, and the number and location of providers willing and able to certify qualifying patients.

(c) Make recommendations to the legislature and the department for any additions or revisions to the department rules or this chapter.

(d) Five years after the effective date of this chapter, issue a formal opinion on whether the program should be continued or repealed.

III. The advisory council may meet as often as is necessary to effectuate its goals. The first meeting shall be called by the commissioner of the department of health and human services, or designee within 45 days of the effective date of this chapter. At the first meeting, a chairman shall be elected by the members.

IV. On or before January 1 of each year, the advisory council shall provide a report to the department of health and human services and the health and human services oversight committee established under RSA 126-A:13, the board of medicine and the board of nursing on its findings.

Source. 2013, 242:1, eff. July 23, 2013. 2014, 98:1, 2, eff. Aug. 10, 2014.

Section 126-X:10

126-X:10 Annual Data Report. –

I. The commissioner of the department of health and human services shall report annually on the therapeutic use of cannabis program established under this chapter to the health and human services oversight committee established under RSA 126-A:13, to the board of medicine, and to the board of nursing.

II. The report shall be in electronic format to allow for identification of patterns of certification by patient and caregiver, location, age, medical condition, symptom, or side effect, and provider, and for analysis and research to inform future policy, educational, and clinical decisions.

III. The initial report shall be filed no later than December 1, 2014.

IV. The commissioner's data report shall include but not be limited to the following information:

(a) The number of designated caregivers and the number of qualifying patients, by town or city and county.

(b) The ages of the qualifying patients and the ages of the designated caregivers.

(c) The qualifying medical conditions and the number of each qualifying medical condition.

(d) The symptoms or side effects and the number of each symptom or side effect.

(e) The number of physicians and the number of advanced practice registered nurses issuing written certifications.

(f) The number of providers in each medical specialty issuing written certifications.

(g) Any other issues related to the therapeutic use of cannabis permitted under this chapter that the health and human services oversight committee shall request.

V. A summary of the report submitted by alternative treatment centers as required under RSA 126-X:8, XII.

Source. 2013, 242:1, eff. July 23, 2013.

